



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

**5 Post Office Square, Suite 100
Boston, MA 02109-3912**

October 16, 2012

William J. Schneider, Attorney General
State of Maine Office of Attorney General
6 State House Station
Augusta, Maine 04333-0006

Dear Attorney General Schneider:

Thank you for your letter of August 8, 2012 concerning 12 M.R.S. § 6134(2), the "Alewife Law," and my letter of July 9, 2012. I am writing to respond to two issues your office has raised about my July 9 letter.

Maine Water Quality Standards and Indian Territories

My letter of July 9, 2012 did not in any manner signal that EPA has changed its position on the applicability of Maine's water quality standards (WQS) to waters in tribal territories in Maine. EPA's policy is that states are not authorized to implement federally approved environmental programs, like the WQS program under the federal Clean Water Act (CWA), in the territories of federally recognized tribes unless and until EPA has made clear findings on the record approving the state standards to apply in Indian country. My July 9 letter made no mention of this point for the simple reason that the dam at issue is in waters outside tribal territories, and there are significant waters affected by the dispute over alewife passage outside tribal waters. The focus of my July 9 letter was the application of state WQS to waters where the state WQS program has been authorized. There was no need to mention the routine limitation EPA includes when it is newly approving state WQS outside Indian territories.

Next Steps in River Herring Restoration

We gladly accept your invitation to work with the Administration in the process of selecting and implementing an approach to reintroducing river herring to the St. Croix River watershed. We anticipate coordinating our participation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, as we did in developing the plan recommended in the attached April 19, 2012 letter to the International Joint Commission.

Please feel free to contact Ronald Fein of our Office of Regional Counsel (617-918-1040 or fein.ronald@epa.gov) or Ellen Weitzler, our Water Quality Standards Coordinator (617-918-1582 or weitzler.ellen@epa.gov) if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen S. Perkins", is written over a horizontal line.

Stephen S. Perkins, Director
Office of Ecosystem Protection

Cc: Patrick C. Keliher, Commissioner, Maine Dept. of Marine Resources
Chandler E. Woodcock, Commissioner, Maine Dept. of Inland Fisheries & Wildlife
Patricia Aho, Commissioner, Maine Dept. of Environmental Protection
David Courtemanch, Maine Dept. of Environmental Protection

Enclosure